

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

JS-6

Case No. **EDCV 15-2285 JGB (DTBx)**

Date November 10, 2015

Title ***Simon Wang v. Raymond Robinson et al.***

Present: The Honorable **JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE**

MAYNOR GALVEZ

Deputy Clerk

Not Reported

Court Reporter

Attorney(s) Present for Plaintiff(s):

None Present

Attorney(s) Present for Defendant(s):

None Present

Proceedings: Order REMANDING the Case to California Superior Court for the County of Riverside (IN CHAMBERS)

I. BACKGROUND

On August 5, 2015, Plaintiff Simon Wang (“Plaintiff”), filed a complaint for unlawful detainer against Defendants Raymond Robinson and Doe Defendants 1 through 10 in the California Superior Court for the County of Riverside. (“Complaint,” Doc. No. 1-2.) On November 5, 2015, Defendant Raymond Robinson (“Defendant”) removed the action to this Court. (“Notice of Removal,” Doc. No. 1.)

II. LEGAL STANDARD

Removal jurisdiction is governed by statute. See 28 U.S.C. §1441. The Ninth Circuit applies a strong presumption against removal jurisdiction, ensuring “the defendant always has the burden of establishing that removal is proper.” Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992) (citing Nishimoto v. Federman-Bachrach & Assocs., 903 F.2d 709, 712 n.3 (9th Cir. 1990)); see also In re Ford Motor Co./Citibank, 264 F.3d 952, 957 (9th Cir. 2001) (“The party asserting federal jurisdiction bears the burden of proving the case is properly in federal court.”). “If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.” 28 U.S.C. § 1447(c); FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231 (1990) (“federal courts are under an independent obligation to examine their own jurisdiction”); see also Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”)

III. DISCUSSION

Defendant purports to remove this action on the basis of federal question jurisdiction pursuant to 28 U.S.C. § 1331 because the case “raises issues of Procedural and Substantive Due Process under the United States Constitution.” (Notice of Removal at 2.) Defendant alleges that he was never properly served with the Complaint, that the summons improperly names Simon Ung – not Simon Wang – as the Plaintiff, and that the state court improperly denied Defendant’s motion to quash service and motion to strike the Complaint. (Id. at 2-3.)

In order for removal to be proper on the basis of federal question jurisdiction, Defendant must show that Plaintiff’s “well-pleaded complaint establishes either that federal law creates the cause of action or that the plaintiff’s right to relief necessarily depends on resolution of a substantial question of federal law.” Proctor v. Vishay Intertechnology Inc., 584 F.3d 1208, 1219 (9th Cir. 2009) (quoting Empire Healthchoice Assurance, Inc. v. McVeigh, 547 U.S. 677, 689–90 (2006)). “[F]ederal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” Caterpillar, Inc. v. Williams, 482 U.S. 386, 392 (1987). “A defense is not part of a plaintiff’s properly pleaded statement of his or her claim.” Rivet v. Regions Bank of La., 522 U.S. 470, 475 (1998).

On the face of the Complaint, Plaintiff’s only claim is for unlawful detainer, a California state law action. (See Complaint.); see also Lapeen, 2011 WL 2194117, *3 (“an unlawful detainer action, on its face, does not arise under federal law but is purely a creature of California law”) (citing Wescom Credit Union v. Dudley, No. 10-8203, 2010 WL 4916578, *2 (C.D. Cal. Nov. 22, 2010)). Whatever federal questions Defendant might raise in defense to the unlawful detainer action are insufficient to confer removal jurisdiction over it. See, e.g., U.S. Bank, N.A. v. Barcenas, 2012 U.S. Dist. LEXIS 173586, at *1 (C.D. Cal. Dec. 5, 2012) (“Because this is an unlawful detainer action, a federal question does not present itself.”); Aurora Loan Servs. v. Orozco, 2012 U.S. Dist. LEXIS 172200, at *3–4 (C.D. Cal. Dec. 3, 2012) (explaining that unlawful detainer actions are purely matters of state law and that “any federal defense Defendant raises is irrelevant with regard to jurisdiction”).

Plaintiff’s right to relief on the unlawful detainer claim does not depend on the resolution of a substantial question of federal law. Rather, Plaintiff is entitled to judgment upon establishing that the requisite three-day notice to pay or quit was served on Defendant as required by California Code of Civil Procedure § 1161(3). Long Beach Brethren Manor, Inc. v. Leverett, 239 Cal. App. 4th Supp. 24, 28-29 (Cal. App. Dep’t Super. Ct. 2015). Accordingly, due to the absence of a federal claim or substantial question of federal law, Defendant has not shown that the Court has jurisdiction based on a federal question under 28 U.S.C. § 1331.

IV. CONCLUSION

“If it clearly appears on the face of the [Notice of Removal] and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.” 28 U.S.C. § 1446(c)(4). Pursuant to 28 U.S.C. § 1446(c)(4), the Court has examined the Notice of Removal and concludes that Defendant has not met his burden of establishing that this case is properly in federal court. See In re Ford Motor Co./Citibank (South Dakota), N.A., 264 F.3d 952, 957 (9th Cir. 2001) (“The party asserting federal jurisdiction bears the burden of proving the case is properly in federal court.”).

For the foregoing reasons, the Court REMANDS this action to the Riverside Superior Court.

IT IS SO ORDERED.